

ANWAR KAMAL LAW ASSOCIATES

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BY EMAIL, FAX & UMS

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The Chairman,
National Electric Power
Regulatory Authority (NEPRA),
Attaturk Avenue (East), NEPRA Tower,
Sector G-5/1, Islamabad.

Subject: Circular Debt and its Impact on the Electric Power Sector of Pakistan.

Reference:

- i) AKLA's more than 75 letters written in the matter of Monthly Fuel Charge Adjustment for Ex-WAPDA Distribution Companies.
- ii) AKLA's other letters written to NEPRA highlighting various issues which are affecting the Power Sector of Pakistan adversely.
- iii) Section 9 of the National Accountability Ordinance, 1999 (NAO) which defines 'Corruption and Corrupt practices'.

Dear Sir,

Mr. Anwar Kamal, senior Associate of Anwar Kamal Law Associates (AKLA), is a tax paying citizen of Pakistan and a consumer of electricity. Since 2002 he has assisted the National Electric Power Regulatory Authority on various issues with regard to grant of Generation Licenses, Tariff Determinations, framing of Rules etc. It is also a great honor for him that the Supreme Court of Pakistan and the Lahore and Islamabad High Courts have appointed him as amicus curiae in various electric Power related cases to assist the Honorable Courts. AKLA have also assisted the High Courts and Supreme Court as a legal Counsel to public sector organizations as well as to NEPRA in the cases of New Captive Power Plants (NCPs) and K-Electric etc.

2. AKLA have been participating in many of the proceedings of NEPRA conducted by it in the matter of the grant of Licenses, Modification of Licenses, Tariff Determinations etc. AKLA have also been participating in the process of Monthly Fuel Charges Adjustment since May 2014 without any gap. The participation of AKLA in NEPRA's proceedings and assisting the Authority is only in the 'Public Interest'. Though the number of letters written by AKLA to NEPRA to protect the interest of all categories of electricity consumers may be the highest in the country, AKLA have not seen any meaningful action from NEPRA on the issues which have been presented before NEPRA. Still, they have decided to continue to make their submissions on issues which are adversely affecting the Pakistan Power Sector.

3. At the outset AKLA would like to draw the attention of the Authority towards the issue of Circular Debt. This issue is being highlighted in leading newspapers on almost a daily basis for the last one month but no action from NEPRA, which is an exclusive Regulator of the Power Sector of Pakistan, has been seen in the matter. The passive role of the exclusive Regulator i.e. NEPRA is causing deterioration the Power Sector of Pakistan. It is being reported in the national press that circular debt has touched Rs.414 billion. AKLA are of the firm opinion that if NEPRA would have been vigilant on the issues of the Power Sector and had been monitoring the working and functioning of CPPA(G) with regard to the Power Purchases, Capacity payments due and paid etc., this amount would not have reached this level. AKLA do not know whether it is the issue of the capacity of the Power Sector Regulator or it is a well considered approach of NEPRA to limit itself to only the grant of Generation Licenses, whether required or not, and approval of the abnormally high Tariffs. For the last many years, AKLA are highlighting that the Power Sector Managers, as well as the Power Sector Regulator of Pakistan, are using illegal and imprudent shortcuts to fix the Power Sector problems. The purpose of using shortcuts by any Agency may be to project efficiency and discipline in the System, which actually does not exist. By using such tactics a group of people may gain personal benefits but the price of such shortcuts has to be borne by the country's economy and the electricity consumers.

4. AKLA would like to put it on record that the information about the Power Sector data, especially Power Purchases, Capacity payments due and paid, liquidated damages invoiced and received etc. are not available in the public domain. AKLA made all efforts and approached NTDC, CPPA and NEPRA to provide this data but no Agency was ready to provide the materially relevant data. AKLA do not know why these organizations are not ready to provide this data, in the absence of which the only source available to AKLA for the information are the news items being published in the newspapers.

5. AKLA would like to draw the attention of the Authority to the news items published in daily 'Business Recorder' of 20.02.2017 under the heading 'Ministry says Rs. 348 bn accumulate', and published in daily 'The News' on 27.02.2017 under the heading "Discos collect Rs. 125b extra from consumers in two years." The contents of another news item published in daily DAWN of 16.03.2017 under the heading "Circular debt spills over into entire Fuel supply chain" are alarming.

6. For the last three years AKLA are highlighting the issue of over-recovery by DISCOs in connivance with the Power Regulator. The DISCOs are over-recovering their consumers mainly on the following accounts:

- Non refund of Fuel Charges Adjustment (FCA) amount to the consumers consuming electricity upto 300 Units; despite the fact that consumers are being charged as per the consumer-end Tariff determination of Financial Year 2013-14. As per the Determination of 2013-14, the consumers using electricity upto 300 units are also eligible for the refund of amount on account of Fuel Charges Adjustment (FCA) but unfortunately NEPRA extended a 'favor' and ordered DISCOs not to

